



APPLICATION FOR A STANDARD AQUACULTURE LEASE

BOTTOM AQUACULTURE

NO DISCHARGE

This is an application for a standard aquaculture lease, using bottom culture where there is no discharge into marine waters. If you will be using any gear, whether floating or submerged, please fill out an application for suspended culture. A standard aquaculture lease may be up to 100 acres in size and may be issued for a term of no longer than ten years. You are encouraged to review the aquaculture lease regulations to obtain a more complete understanding of the lease process. Applications, rules and statutes are all available at the DMR website – www.maine.gov/dmr/aquaculture

YOU ARE REQUIRED TO ATTEND A PRE-APPLICATION MEETING WITH THE DEPARTMENT PRIOR TO CONDUCTING FIELD WORK AND COMPLETING THE APPLICATION. CALL THE AQUACULTURE ENVIRONMENTAL COORDINATOR, JON LEWIS, AT 207-633-9500 TO SET UP A MEETING. AN APPLICATION WILL NOT BE CONSIDERED COMPLETE UNTIL A PRE-APPLICATION MEETING IS HELD.

The Maine Department of Marine Resources requires a non-refundable fee for aquaculture applications based on acreage:

Less than 1 acre \$ 100	1 to 10 acres \$ 250	11 to 50 acres \$ 500	51 to 100 acres \$ 1000
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Mailing Instructions:

Provide one copy of your application to the MDMR address listed below. The applicant shall be notified upon receipt when the application has been reviewed and accepted as complete by the MDMR.

DEPARTMENT OF MARINE RESOURCES
ATTN: Mary Costigan, Aquaculture Administrator
P.O. Box 8
West Boothbay Harbor, Maine 04575

A. THE LEASE APPLICATION PROCESS: WHAT TO EXPECT

The following information outlines the process leading to the approval of an aquaculture lease. For more specific information, see the DMR regulations, Chapter 2 and 12 M.R.S.A. § 6072.

1. **Pre-application Meeting.** Prior to completing your application, please contact the Department to set up a pre-application meeting. Applications submitted without a pre-application meeting will not be considered complete.
2. **Submit Application.** Applicant submits application to Department of Marine Resources. DMR will make a determination as to whether or not your application is complete. If incomplete, you will receive a letter asking for further information. If complete, DMR will forward your application to other regulatory agencies, the municipality and riparian landowners.
3. **Public Scoping Session.** DMR will determine whether or not to conduct an informal public scoping session on the application. The applicant is required to attend the scoping session. A decision of whether or not to conduct a public scoping session will be made after an application is deemed complete.
4. **DMR Site Review.** You will be contacted to schedule a site review of your proposed lease area. This review will be an on-site inspection of the proposed lease area. A number of environmental measurements and a SCUBA dive will be made on the site. Your presence at the site review will be requested. DMR staff will develop a report of the site review. Site reviews must take place between April 1st and November 15th.
5. **Public Hearing.** An adjudicatory aquaculture lease hearing is a requirement for all applicants under the MDMR Aquaculture Lease Regulations. MDMR 12 M.R.S.A. §6072(6).
6. **Public Notice.** The applicant shall give at least 2 weeks notice of the hearing by publication of an advertisement in a newspaper of general circulation that serves the area in which or adjacent to which the lease is proposed. The advertisement must state, at a minimum, the location, date, time, and purpose of the hearing and must indicate how a copy of the application and the department site review may be obtained (Sec. 2. M.R.S.A. §6072, sub-§6, ¶D). The applicant **must** bring a copy of the public notice to the public hearing and present it to the Hearings Officer. At least **60** days prior to the public hearing, the applicant shall place visible markers which delineate the area proposed to be leased.
7. **Decision.** The DMR Hearings Officer will prepare a report including proposed findings of fact, conclusions of law, and if requested by the Commissioner, a recommended decision to grant or deny the lease. The Hearing Officer's proposed decision will be sent to all legal parties, who will have ten days to comment on the proposed decision. The Commissioner will make a final decision to grant or deny the lease within 120 days of the public hearing.
8. **Requirements After a Lease is Granted.** The lessee must:

- a. Establish an escrow account or secure a performance bond in the amount required by DMR in the lease.
 - b. Publish a notice in a newspaper of general circulation in the area affected. (DMR will assist you with this requirement).
 - c. Record the lease in the Registry of Deeds of each county in which the lease area is located. (DMR will assist you with this requirement).
 - d. Mark the lease site with the appropriate buoys. (DMR regulations, Chapter 2.80)
 - e. Submit to the Commissioner an annual report of lease activities.
 - f. Pay the annual rental fee of \$50 per acre.
9. **Revocation.** The Commissioner may commence revocation procedures if he determines that substantial aquaculture has not been conducted within the preceding year or that the lease activities are substantially injurious to marine organisms. If any of the conditions or requirements of a lease are not being observed, the Commissioner may revoke the aquaculture lease. 12 M.R.S.A. § 6072(11).
 10. **Transfer.** A lessee may apply for Department approval of the transfer of his aquaculture lease to another person for the remaining portion of the lease term. A lease transfer shall be an adjudicatory proceeding.
 11. **Renewal.** A lessee must file with the Department an application to renew a lease no later than 6 months prior to the lapse of the prior lease. Renewal of a lease shall be an adjudicatory proceeding.

B. REQUIREMENTS AND RESTRICTIONS

Aquaculture lease must comply with the following state and federal regulations:

1. **Essential Habitats and Eagle Nests:** Aquaculture leases generally must not be closer than 1/4 mile from eagle nests or Essential Habitats as regulated by Maine Department of Inland Fish & Wildlife (MDIF&W) under authority of the Maine State Endangered Species Act and in accordance with guidelines of other endangered and threatened species developed by MDIF&W. MDIF&W Essential Habitat Maps are available **for review** at the following offices: MDIF&W Regional Offices, county government, Registrar of Deeds offices, affected town offices, Regional Planning Commission offices and many state agencies. The maps are also available on the MIF&W website at www.maine.gov/ifw. Maine State Endangered Species Act 1975, 12 M.R.S.A. §7751 et seq.
2. **Lease Required:** Except as provided in paragraphs B and B-1 of 12 M.R.S.A. § 6072, it is unlawful for a person who does not have a lease issued by the commissioner under this section to construct or operate in the coastal waters of the State a facility for the culture of finfish in net, pens or other enclosures or for the suspended culture of any other marine organism. MDMR 12 M.R.S.A. §6072(1-A).
3. **Water Quality Classification:** The State's Water Classification Program prohibits any discharge into Class SA waters. Review MDEP Water Classification Program for restricted areas as described in 38 M.R.S.A. Article 4-A.
4. **Water Discharges:** Review 38 M.R.S.A. § 413 for information regarding National Pollution Discharge Elimination System Permits.
5. **Lease Conditions:** The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities.

C: APPLICATION COVER SHEET

Name: _____

Address: _____

City: _____

County: _____

State, zip _____

Telephone: business _____ home _____ cell _____

Email address: _____

Date of Pre-application meeting: _____

town

county

waterbody

Location of lease site: _____

Total acreage requested: _____
(100-acre maximum)

Lease Term requested: _____
(10-year maximum)

Name of species to be cultivated, common and scientific names:

Name and address of the source of seed stock, juveniles, smolts, etc., to be cultivated:

Amount of application fee enclosed: _____

I hereby state that the information included in this application is true and correct and that I have read and understand the requirements of the Department's rules governing aquaculture.

Signature: _____ Date: _____

D. APPLICATION INFORMATION REQUIREMENTS

Answer all questions under each Section as completely as possible.

This application includes questions on site location, site development, operation, environmental characterization, area resources, surrounding area use, technical capabilities, financial capabilities, and a list of certifications, licenses, etc.

Definitions from the MDMR Aquaculture Lease Regulations:

Aquaculture: The culture or husbandry of marine organisms by any person. Storage or any other form of impounding or holding wild marine organisms, without more, shall not qualify as aquaculture. In order to qualify as aquaculture, a project must involve affirmative action by the lessee to improve the growth rate or quality of the marine organism.

Culture or Husbandry: The production, development or improvement of a marine organism.

Riparian Owner: A shorefront property owner whose property boundaries are within 1000 feet of the proposed lease boundaries.

Existing or Potential Uses: All water-related activities and resources including, but not limited to, commercial and recreation fisheries, marine transportation, aquaculture, and boating.

Adverse Effects: Impediments to water-related activities or unreasonable interference with natural processes supporting those activities. This includes, but is not limited to, floating or submerged obstruction, habitat destruction, natural flora and fauna displacement, current flow alteration, and lowered water quality.

Please read all instructions before completing. Applications must be typed and **reproducible**. Please use 8 1/2" x 11" paper with a 3/4" margin at the top; **use the numbering system listed for each item requested**. All drawings, charts and plans must adequately show the proposed project. It is recommended that any plans, drafts, charts, etc., be certified by a professional engineer.

1. SITE LOCATION

a. Vicinity Map

Use a NOAA chart or USGS Topographic map to show the waters and shorelands within the general vicinity of the lease tracts depicting the lease area.

b. Plan View

An enlargement of a NOAA chart or USGS Topographic map is suggested to provide this information. Exact location of lease described as follows:

1. Mark entire lease boundary.
2. Show depth contours and indicate mean low water and mean high water on all land adjacent or nearest site.
3. Show primary ebb and flood directions.
4. Mark true north with arrow.
5. Include scale used.
6. Label the location of Federal projects, navigational channels, any structures, existing aquaculture leases within 2000 feet or state or federal beaches, parks or docking facilities within 1000 feet.
7. Provide the latitude, longitude and State Plane Coordinates for each corner of the entire lease or the metes and bounds of the lease.

2. OPERATIONS

a. Production Activities

1. List and describe your proposed activities including boat traffic, routine schedules, cultivation techniques, monitoring schedule, transport schedule, predator control methods, harvest schedule, harvest technique and processing methods.
2. Describe the start-up and projected maximum production on a 12-month basis. Also state the maximum stocking density.

b. Noise and Light

1. Provide the type of powered equipment, if any, that will be used on site, including, but not limited to boats, barges, power washers, generators, upweller motors, harvesting

or seeding equipment, and feeding equipment. Vessels moving to and from the site are considered exempt from the noise impact consideration.

2. Indicate generally when, how often and for how long this equipment will be used (i.e. daily, weekly, only during harvesting).
3. Specify what will be used to reduce the noise level from the powered equipment, i.e., mufflers, etc. You do not need to provide decibel or frequency ratings unless they are known or provided by the equipment manufacturer.
4. Provide the number, type (whether the fixtures are shielded), wattage and location of lights, other than those used for navigation or marking, that will be used at the proposed lease site.
5. Indicate under what circumstances you might work at your site beyond daylight hours.

3. ENVIRONMENTAL CHARACTERIZATION

The MDMR aquaculture lease regulations specify applicants may do more than one site evaluation, but one evaluation must be completed between April 1 and November 15, dates inclusive.

a. Environmental Characterization

Provide the environmental evaluation used to select the proposed lease tract(s). Descriptive information shall include but not be limited to: bottom characteristics (include but not limited to sediment types, distribution and topography), resident flora and fauna (species are very abundant, common, rare), tide levels, current speed and direction.

4. AREA RESOURCES

a. Shellfish Beds, Fish Migration Routes and Submerged Vegetation Beds

Provide a description of shellfish beds, fish migration routes and other marine resources in the surrounding area. Provide a map of these resources if available from the local municipality or state agencies.

Provide the shellfish growing area classification for the area of the proposed lease. The classifications are available at either the town office or from the Public Health Division of DMR. Contact information is available at the DMR website: www.maine.gov/dmr/rm/public_health

b. Essential Habitats/Endangered Species

Under the Maine Endangered Species Act a state agency or municipal government shall not permit, license, fund, or carry out projects occurring partly or wholly within an **Essential Habitat** without the approval of the Commissioner of MDIFW. Applicants are strongly encouraged to

contact the Environmental Coordinator, Maine Inland Fisheries and Wildlife, 284 State Street, State House Station 41, Augusta, Maine 04333; Telephone (207) 287-3286. Applicants are requested to provide a signed statement to confirm the proposed lease **either** does not fall within the boundary of an Essential Habitat or that the applicant has contacted MDIF&W and by preliminary review MDIF&W will grant approval for the MDMR to issue an aquaculture lease within part or all of the boundary of a designated Essential Habitat.

5. SURROUNDING AREA USE

a. Riparian Property

1. Provide a tax map, chart, or topographic map showing the locations of the lease tract(s), the waters, shorelands and general vicinity of the lease tract(s). Property lines must be clearly marked.
2. List the names and addresses of every riparian owner of land within 1000 feet of the lease tract(s) and the location of their property marked as shown on the map. The map and list of riparian owners must be certified by the tax collector or clerk of the municipality in which the lease tract is located as being an accurate copy of this information as maintained by the municipality.
3. The written permission of every riparian owner whose land to the low mark will actually be used to access the lease site or upon which the lease activities will take place.
4. A description of riparian owner's current use of lease site for purposes of access to riparian owned land.

b. Existing Uses

1. Describe the navigational or other uses of the area(s) by type (recreational, commercial), volume, time (seasonal patterns of use), duration (in the vicinity), direction of traffic, amount of activity.
2. Describe the degree of exclusive use required by the proposed lease and the impact on existing or potential uses of the area.

6. TECHNICAL CAPABILITY

Provide information regarding professional expertise such as a resume' and documentation of technical expertise and practical experience necessary to accomplish the proposed project.

7. FINANCIAL CAPABILITY

- a. Financial Capability
Provide documentation to prove the applicant has the necessary financial resources for the proposed project. For example, the applicant may provide copies of bank statements or other evidence indicating availability of the unencumbered funds or other proof that equipment and seed stock are available to the applicant. See MDMR Aquaculture Regulations chapter 2.10(3)(9).
- b. Cost Estimates
Provide documentation of accurate and complete cost estimates of the proposed aquaculture activities.
- c. Other Lease Interests and Multiple Ownership
List all other aquaculture leases held by the applicant or in which the applicant has a financial interest.
- d. Other Lease Interests and Multiple Ownership Continued
If the applicant is a corporation, submit information as requested under A (Corporate Applicants). If the applicant is in a partnership, submit information as requested under B (Partnership Applicant). MDMR Aquaculture Regulations chapter 2.12(1)-(3).

A. Corporate Applicants

- 1. The date and State in which Incorporated and a copy of the Articles of Incorporation;
- 2. The names, addresses, and titles of all officers;
- 3. The names and addresses of all directors;
- 4. Whether the corporation, or any stockholder, director, or officer had applied for an aquaculture lease for Maine lands in the past, and the outcome or current status of that application or lease;
- 5. The names and addresses of all stockholders who own or control at least 5% of the outstanding stock and the percentage of outstanding stock currently owned or controlled by each such stockholder;
- 6. The names and addresses of stockholders, directors, or officers owning an interest, either directly or beneficially, in any other Maine aquaculture leases, as well as the quantity of acreage from existing aquaculture leases attributed to each such person under MDMR Aquaculture Regulations chapter 2.12(3);
- 7. Whether the corporation or any officer, director, or shareholder listed in item 5 above has ever been arrested, indicted, convicted of, or adjudicated to be responsible for any violation of any marine resources or environmental protection law, whether state or federal.

B. Partnership Applicant

1. The date and state in which the partnership was formed and a copy of either the Certificate of Limited Partnership or documentation of the formation of a General Partnership;
2. The names, addresses, and ownership shares of all partners;
3. Whether the partnership or any partner has applied for an aquaculture lease for Maine lands in the past and the outcome or current status of that application or lease;
4. Whether the partnership or any partner owns an interest, either directly or beneficially, in any other Maine aquaculture leases as well as the quantity of acreage from existing aquaculture leases attributed to the partnership or partner under MDMR Aquaculture Regulations chapter 2.12(3);
5. Whether the partnership or any partner has been arrested, indicted or convicted of or adjudicated to be responsible for any violation or marine resources or environmental protection law, whether State or Federal.

8. OTHER REQUIREMENTS

The following items must accompany the application:

- a. Escrow Account or Performance Bond

Documentation confirming that the applicant has read MDMR Aquaculture Regulations chapter 2.40 and that upon issuance of a lease by the MDMR the lessee will either open an escrow account or obtain a performance bond determined by the nature of the aquaculture activities proposed as follows –

<u>Lease Category</u>	<u>Amount of Required Escrow or Performance Bond</u>
No structure, no discharge	\$ 500.00
No structure, discharge	\$ 500.00
Structure, no discharge	\$

Total combined area of all structures on lease:

=400 square feet	\$1,500.00
>400 square feet	\$5,000.00
Structure, discharge	\$ 25,000.00